

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HEALTH ALLIANCE PLAN OF)	
MICHIGAN, HAP PREFERRED,)	
INCORPORATED, and ALLIANCE)	
HEALTH AND LIFE INSURANCE)	Civil Action No. 2:14-cv-13788
COMPANY,)	
)	Judge: Hon. Denise Page Hood
Plaintiffs,)	
)	Magistrate Judge: Hon. Michael
vs.)	J. Hluchaniuk
)	
BLUE CROSS BLUE SHIELD OF)	
MICHIGAN MUTUAL INSURANCE)	
COMPANY, a Michigan nonprofit)	
mutual insurance company,)	
)	
Defendant.)	

**NOTICE TO SUPPLEMENT DEFENDANT'S MOTION FOR
DISQUALIFICATION OF ATTORNEY DAVID ETTINGER AND
HONIGMAN MILLER SCHWARTZ AND COHN, LLP**

Robert A. Phillips (P58496)
BLUE CROSS BLUE SHIELD OF
MICHIGAN
600 Lafayette East, MC 1925
Detroit, MI 48226
313-225-0536
rphillips@bcbsm.com

Todd M. Stenerson (P51953)
D. Bruce Hoffman
(Adm. E.D. MI, DC Bar 495385)
Neil K. Gilman
(Adm. E.D. MI, DC Bar 449226)
Jonathan H. Lasken
(Adm. E.D. MI, DC Bar 997251)
HUNTON & WILLIAMS LLP
2200 Pennsylvania Ave., NW
Washington, DC 20037
202-955-1500
tstenerson@hunton.com

Defendant Blue Cross Blue Shield of Michigan (“BCBSM”) hereby supplements the record on its motion to disqualify attorney David Ettinger and his firm (collectively, “Honigman”), Dkt. 14. On April 29, 2015 Mr. Ettinger sent a letter to counsel for BCBSM and Aetna confirming that Honigman actively represents its hospital clients in the *Aetna* case at the same time it represents HAP in this case. The letter is attached hereto as Exhibit A.

The letter is significant because in its Response to the Motion to Disqualify, Dkt. 27, Honigman argued that it is “only *possibly* remaining role *might* involve representation of witnesses, if any, who testified at the Aetna trial.” Resp., at 20 (emphasis added). Honigman further argued at the hearing that the harm its representation will cause is “vague” and “nebulous.” Trans. (Dkt. 35), at 58:8-10. And, the sworn declaration of HAP’s general counsel, stated that the hospitals were “former” Honigman clients. Champney Decl., ¶ 5 (Dkt. 27-2). HAP’s knowledge about the status of Honigman’s role presumably came from Honigman.

The April 29 letter confirms that Honigman is actively representing its hospital clients in the *Aetna* case. Thus, all of the concerns raised by BCBSM are established and non-speculative. The conflict issues must be evaluated under the standard applicable to current, not former, clients. With this recent correspondence, no doubt remains that Honigman’s legal advice to its hospital clients is a conflict requiring disqualification.

Honigman's hospital clients and their documents will be featured in the *Aetna* trial (as made clear by both Parties' witness and exhibit lists), and given that Honigman has made plain that it will take advocacy positions with respect to evidence in the *Aetna* trial, the stage is set for Honigman to use the *Aetna* trial to develop "helpful evidence" in this case. This undeniable conflict prejudices BCBSM and the fair administration of justice for the reasons explained in BCBSM's previous briefing on this issue and at oral argument.

BCBSM respectfully asks that the record on its Motion to Disqualify Honigman be supplemented with Mr. Ettinger's April 29, 2015 letter.

Dated: May 8, 2015

Respectfully submitted,

/s/ Todd M. Stenerson

HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
202-955-1500
tstenerson@hunton.com
P51953

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2015, I caused to be served the foregoing Notice to Supplement Defendant's Motion for Disqualification of Attorney David Ettinger and Honigman Miller Schwartz and Cohn, LLP through the Court's ECF system.

Attorney for Plaintiffs - Health Alliance Plan of Michigan, HAP Preferred, Incorporated, and Alliance Health and Life Insurance Company

dettinger@honigman.com

By: /s/ Todd M. Stenerson
Todd M. Stenerson
220 Pennsylvania Ave, N.W.
Washington, D.C. 20037
(202) 955-1500
tstenerson@hunton.com
P51953
Attorney for Defendant